

**7-42. Noncompliance Penalty: Assessment in the Absence of State Action
(1200 TN 350 7-42)**

1. **AUTHORITY.** Pursuant to regulations promulgated under section 120 of the Clean Air Act:
 - a. To assess and receive payment of a noncompliance penalty against every person described in the noncompliance penalty section of the CAA where the state has a delegation in effect but fails to assess or collect the penalty as required; and
 - b. To negotiate and sign consent agreements memorializing settlements between the Agency and respondents prior to the issuance of a notice of noncompliance.
2. **TO WHOM DELEGATED.** Director, Air Protection Division (APD); director, Office of Enforcement, Compliance, and Environmental Justice (OECEJ).
3. **LIMITATIONS.**
 - a. Prior to exercising this authority, the delegates must consult with the AA for OECA.
 - b. The delegates must consult with regional counsel prior to exercising these authorities.
 - c. The director, OECEJ may exercise these authorities only in multi-media cases.
 - d. The director, OECEJ must consult with the director, APD, before exercising these authorities.
 - e. The AA for OECA may exercise these authorities in multi-regional cases or in cases of national significance.
 - f. The AA for OECA must notify any affected RA prior to exercising any of the above authorities.
 - g. The AA for OECA may waive, in writing, the consultation requirement.
 - h. The Agency official who signs the notice of noncompliance should sign the settlement agreement.
4. **REDELEGATION AUTHORITY.**
 - a. This authority may be redelegated to the associate division director level, or equivalent, and no further. This authority may not be redelegated without formal amendment.
 - b. An official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by any official in the chain of command down to the official to whom it has been specifically redelegated.
5. **ADDITIONAL REFERENCES.**
 - a. Section 120(a)(A) and (B) of CAA.
6. **SUPERSESSION.** Delegations Manual, CAA, Regional Delegation 7-42.
Noncompliance Penalty: Assessment in the Absence of State Action, 1200 TN RIII-147 (August 26, 2002).

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